

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1454

Introduced by Senator DeSaulnier

February 19, 2010

~~An act to amend Section 7074.2 of the Government Code, relating to enterprise zones. An act to repeal Chapter 5.8 (commencing with Section 42359) of, and to repeal and add Chapter 5.7 (commencing with Section 42355) of, Part 3 of Division 30 of the Public Resources Code, relating to recycling.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1454, as amended, DeSaulnier. ~~Enterprise zones. Recycling: plastic products.~~

Existing law prohibits a person from selling a plastic bag or a plastic food or beverage container that is labeled as "compostable" or "marine degradable" unless that plastic bag or container meets certain American Society for Testing and Materials (ASTM) standard specifications or a standard adopted by the Department of Resources Recycling and Recovery. Existing law prohibits the sale of a plastic bag or plastic food or beverage container that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified. Existing law provides for the imposition of a civil penalty for a violation of these prohibitions.

This bill would repeal those prohibitions and would instead prohibit the sale of a plastic product, as defined, labeled as "compostable" or "marine degradable" unless it meets those ASTM standard specifications or a standard adopted by the department. The bill would prohibit the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified. The bill

would provide for the imposition of a civil penalty for a violation of those prohibitions.

~~The Enterprise Zone Act prohibits the Department of Housing and Community Development from designating more than 42 enterprise zones at any one time.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5.7 (commencing with Section 42355)
2 of Part 3 of Division 30 of the Public Resources Code is repealed.
3 SEC. 2. Chapter 5.7 (commencing with Section 42355) is added
4 to Part 3 of Division 30 of the Public Resources Code, to read:

5
6 CHAPTER 5.7. PLASTIC PRODUCTS

7
8 42355. The Legislature finds and declares that it is the public
9 policy of the state that environmental marketing claims, whether
10 explicit or implied, should be substantiated by competent and
11 reliable evidence to prevent deceiving or misleading consumers
12 about the environmental impact of plastic products. For consumers
13 to have accurate and useful information about the environmental
14 impact of plastic products, environmental marketing claims should
15 adhere to uniform and recognized standards, including those
16 standard specifications established by the American Society for
17 Testing and Materials.

18 42356. For purposes of this chapter, the following definitions
19 apply:

20 (a) "ASTM" means the American Society for Testing and
21 Materials.

22 (b) (1) "ASTM standard specification" means one of the
23 following:

24 (A) The ASTM Standard Specification for Compostable Plastics
25 D6400, as published in September 2004, except as provided in
26 subdivision (c) of Section 42356.1.

27 (B) The ASTM Standard Specification for Non-Floating
28 Biodegradable Plastics in the Marine Environment D7081, as

published in August 2005, except as provided in subdivision (c) of Section 42356.1.

(C) The ASTM Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates D6868, as published in August 2003, except as specified in subdivision (c) of Section 42356.1.

(2) “ASTM standard specification” does not include an ASTM Standard Guide, a Standard Practice, or a Standard Test Method.

(c) “Department” means the Department of Resources Recycling and Recovery.

(d) “Manufacturer” means a person, firm, association, partnership, or corporation that produces a plastic product.

(e) “Plastic product” means a product made of plastic, whether alone or in combination with other material, including, but not limited to, paperboard. A plastic product includes, but is not limited to, all of the following:

(1) (A) A consumer product.

(B) For purposes of this paragraph “consumer product” means a product or part of a product that is used, bought, or leased for use by a person for any purpose.

(2) A package or a packaging component.

(3) A bag, sack, wrap, or other thin plastic sheet film product.

(4) A food or beverage container or a container component, including, but not limited to, a straw, lid, or utensil.

(f) “Supplier” means a person who does one or more of the following:

(1) Sells, offers for sale, or offers for promotional purposes, a plastic product that is used.

(2) Takes title to a plastic product, produced either domestically or in a foreign country, that is purchased for resale or promotional purposes.

42356.1. (a) If an ASTM standard specification specified in paragraph (1) of subdivision (b) of Section 42356 is subsequently revised, the department shall review the new ASTM standard specification as follows:

(1) If the department determines that the new standard is more stringent and more protective of the public health, safety, and the environment, and is reflective of and consistent with state policies and programs, the department may adopt the new standard.

1 (2) *If the department determines that the new standard is not*
2 *as stringent and does not protect the public health, safety, and the*
3 *environment, and is not reflective of and consistent with state*
4 *policies and programs, the department shall not adopt the new*
5 *standard.*

6 (b) *If the ASTM, or any other entity, develops a new standard*
7 *specification or other applicable standard for any of the terms*
8 *prohibited under subdivision (a) of Section 42357, the department*
9 *may review the new standard and, if the department determines*
10 *that the new standard for the prohibited term is more stringent*
11 *and more protective of the public health, safety, and the*
12 *environment, and is reflective of and consistent with state policies*
13 *and programs, the department may make a recommendation to*
14 *the Legislature.*

15 (c) *Compliance with a standard adopted pursuant to paragraph*
16 *(1) of subdivision (a) shall be deemed to be in compliance with*
17 *this chapter.*

18 42357. (a) (1) *A person shall not sell a plastic product in this*
19 *state that is labeled with the term “compostable” or “marine*
20 *degradable” unless, at the time of sale, the plastic product meets*
21 *the applicable ASTM standard specification, as specified in*
22 *paragraph (1) of subdivision (b) of Section 42356.*

23 (2) *Compliance with only a section or a portion of a section of*
24 *an applicable ASTM standard specification does not constitute*
25 *compliance with paragraph (1).*

26 (b) *Except as provided in subdivision (a), a person shall not*
27 *sell a plastic product in this state that is labeled with the term*
28 *“biodegradable,” “degradable,” or “decomposable,” or any form*
29 *of those terms, or in any way imply that the plastic product will*
30 *break down, fragment, biodegrade, or decompose in a landfill or*
31 *other environment.*

32 (c) *A manufacturer or supplier, upon the request of a member*
33 *of the public, shall submit to that member, within 90 days of the*
34 *request, information and documentation demonstrating compliance*
35 *with this chapter, in a format that is easy to understand and*
36 *scientifically accurate.*

37 42358. (a) *A city, a county, or the state may impose civil*
38 *liability in the amount of five hundred dollars (\$500) for the first*
39 *violation of this chapter, one thousand dollars (\$1,000) for the*

1 *second violation, and two thousand dollars (\$2,000) for the third*
2 *and any subsequent violation.*

3 *(b) Any civil penalties collected pursuant to subdivision (a)*
4 *shall be paid to the office of the city attorney, city prosecutor,*
5 *district attorney, or Attorney General, whichever office brought*
6 *the action. The penalties collected pursuant to this section by the*
7 *Attorney General may be expended by the Attorney General, upon*
8 *appropriation by the Legislature, to enforce this chapter.*

9 *(c) The remedies provided by this section are not exclusive and*
10 *are in addition to the remedies that may be available pursuant to*
11 *Sections 17200 to 17210, inclusive, of the Business and Professions*
12 *Code.*

13 *(d) Any costs incurred by a state agency in carrying out this*
14 *chapter shall be recoverable by the Attorney General, upon the*
15 *request of the agency, from the liable person or persons.*

16 *SEC. 3. Chapter 5.8 (commencing with Section 42359) of Part*
17 *3 of Division 30 of the Public Resources Code is repealed.*

18 ~~SECTION 1. Section 7074.2 of the Government Code is~~
19 ~~amended to read:~~

20 ~~7074.2. (a) Notwithstanding any other provision of law, a city,~~
21 ~~county, or a city and county may designate a joint powers authority~~
22 ~~to administer an enterprise zone.~~

23 ~~(b) Not more than 42 enterprise zones may be designated at any~~
24 ~~one time pursuant to this chapter, including those deemed~~
25 ~~designated pursuant to subdivision (e) of Section 7073. Upon the~~
26 ~~expiration or termination of a designation, the department may~~
27 ~~designate another enterprise zone to maintain a total of 42~~
28 ~~enterprise zones.~~

29 ~~(c) Notwithstanding any other provision of law, an expiring~~
30 ~~enterprise zone that applies for a new enterprise zone designation~~
31 ~~pursuant to Section 7073 or 7073.1, and receives a conditional~~
32 ~~designation letter from the department, may offer, and a taxpayer~~
33 ~~doing business within the geographic boundaries of the new zone~~
34 ~~referenced in the conditional designation letter shall be eligible to~~
35 ~~receive, all enterprise zone benefits until the department makes a~~
36 ~~final designation or declines to redesignate the zone. The~~
37 ~~department shall make the effective date of the new zone the date~~

- 1 of expiration of the previous designation and the term of the new
- 2 zone shall begin on that date.